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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/059,427	01/29/2002	Jeroen Anton Johan Leijten	NL 010073	6839

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
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BRIARCLIFF MANOR, NY 10510

EXAMINER

RIZZUTO, KEVIN P

ART UNIT PAPER NUMBER

2183

DATE MAILED: 08/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/059,427	<b>Applicant(s)</b> LEIJTEN, JEROEN ANTON JOHAN	
	<b>Examiner</b> Kevin P Rizzuto	<b>Art Unit</b> 2183	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-15 are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

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#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

***Election/Restrictions***

1. Claims 1-15 are presented for examination.
2. Restrictions to one of the following inventions is required under 35 USC § 121:
  - I. Claims 1-12, drawn to a computer system or method for processing instructions wherein the instructions inform the processor as to how to control a part of processing when an instruction crosses a boundary to a subsequent memory line, classified in Class 712, subclass 207.
  - II. Claims 13-15, drawn to a method of generating a program, e.g. a compiler, for a prefetch unit within the processor, classified in Class 717, subclass 161.
3. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as sub-combinations disclosed as usable together in a single combination. The sub-combinations are distinct from each other if they are shown to be separately usable.

In the instant case, invention I has separate utility such as processing instructions with information encoded in an instruction to control a part of processing when an instruction crosses a boundary to a subsequent memory line. These instructions do not need the claimed compiler in order to be created, they can be created by any means so long as they are formatted correctly, such as by a human programmer. Therefore, the processor does not depend on the

compiler to function. So long as instructions are provided for the processor in the proper format, it does not matter to the processor what was the source of the instructions.

Invention II has separate utility such as use for generating a program of instructions for use by a computing system that contains information on how to control any part of processing. The compiler does not have future knowledge of what type/kind of processor will execute the generated program. The program can later be executed without the need for the specific claimed processor. The additional information provided within the program can be used for different purposes by different processors, such as for a cache refresh or flush, or a particular processor version can simply ignore the information and still correctly execute the program.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
5. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR § 1.143).
6. A telephone call was made to Michael Marion on July 30th, 2004, a receptionist instructed examiner to call Michael Ure in regards to application 10/059427. Telephone

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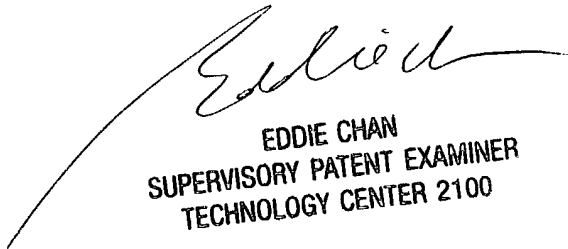
calls to Michael Ure were made on August 9th, 10th and 11th 2004 to request an oral election to the above restriction requirement, but did not result in an election being made. The phone calls were not answered and the voice messages were not returned.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin P Rizzuto whose telephone number is (703) 305-6783. The examiner can normally be reached on M-F, 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eddie Chan can be reached on (703) 305-9712. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



EDDIE CHAN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100

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